

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

HOPE ELLIS, ET AL.,

PLAINTIFFS,

VS.

CIVIL ACTION NO. 3:04CV160-P-D

KOPPERS INDUSTRIES, ET AL.,

DEFENDANTS.

ORDER

These matters come before the court upon Defendant Koppers, Inc.'s April 29, 2005 Motion to Sever [27-1] and May 27, 2005 Renewed Motion to Sever [36-1], and Three Rivers Management, Inc.'s Motion to Sever [51-1]. Upon due consideration of the motions, the court finds as follows, to-wit:

On January 21, 2005, the court entered an Order consolidating the instant case with the lead case of *Beck, et al. v. Koppers, et al.*, Civil Action No. 3:03cv60-P-D. Said Order also provided that henceforth all documents in the *Ellis* case were to be filed in *Beck*. On March 30, 2005 the court entered an Order which, among other things, stayed this case until further order of the court.

Despite these two rulings, Defendant Koppers, Inc. filed two motions to sever, one on April 29, 2005 and the other on May 27, 2005. Three Rivers filed a Motion to Sever on July 20, 2005. These motions should not have been filed at all given the court's stay of *Ellis* and its consolidation with *Beck*. Neither Defendant Koppers nor Defendant Three Rivers filed a motion to lift the stay.

The court concludes that the instant motions should be denied with permission to refile when the court's March 30, 2005 stay is lifted. Furthermore, any motions are to be filed in the lead *Beck* case. This decision is based in part on the court's prior orders and in part on considerations of

judicial economy. Given the court's severance of 98 plaintiffs in the *Beck* case with the remaining 12 plaintiffs to have separate trials, there is no practical reason to act on the 948 plaintiffs' claims in *Ellis* (which will almost certainly be severed at the appropriate time), until those of the 12 in *Beck* are resolved.

IT IS THEREFORE ORDERED AND ADJUDGED that:

(1) Defendant Koppers, Inc.'s April 29, 2005 Motion to Sever [27-1] and May 27, 2005 Renewed Motion to Sever [36-1] are **DENIED**;

(2) Defendant Three Rivers Management, Inc.'s Motion to Sever [51-1] is **DENIED**; and

(3) The parties are instructed once again to file any motions regarding the *Ellis* case in the lead case of *Beck, et al. v. Koppers, Inc.*, Civil Action No. 3:03cv60-P-B, but only at the point in which the court lifts the stay in *Ellis*.

SO ORDERED this the 24th day of February, A.D., 2006.

/s/ W. Allen Pepper, Jr. _____
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE